

ESTTA Tracking number: **ESTTA138581**

Filing date: **05/02/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	THE GLIDDEN COMPANY
Granted to Date of previous extension	05/02/2007
Address	15885 WEST SPRAGUE ROAD STRONGSVILLE, OH 44136 UNITED STATES
Attorney information	KENNTH J. STACHEL THE GLIDDEN COMPANY 15885 WEST SPRAGUE ROAD STRONGSVILLE, OH 44136 UNITED STATES ken_stachel@ici.com Phone:440-297-8397

Applicant Information

Application No	78916312	Publication date	01/02/2007
Opposition Filing Date	05/02/2007	Opposition Period Ends	05/02/2007
Applicant	Kinsella, Jason 63 via pico plaza san clemente, CA 92672 UNITED STATES		

Goods/Services Affected by Opposition

Class 016. All goods and sevicees in the class are opposed, namely: Adhesives for household purposes

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Application No.	78944891	Application Date	08/04/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	RHINO ULTRA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 001. First use: First Use: 2006/02/24 First Use In Commerce: 2006/02/24 Polyurethane glue for woodworking

U.S. Application No.	78940070	Application Date	07/28/2006
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	RHINO ULTRA GLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2006/02/24 First Use In Commerce: 2006/02/24 all purpose household glue		

Related Proceedings	Notices of Opposition also being filed against Application Serial Nos. 78/940,587 & 78/940,651 as of today's date (5/2/2007).
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Attachments	78944891#TMSN.jpeg (1 page)(bytes) 78940070#TMSN.jpeg (1 page)(bytes) Notice of Opposition 78916312.pdf (7 pages)(34126 bytes)
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Signature	/kennethjstachel/
Name	KENNTJ. STACHEL
Date	05/02/2007

IN THE PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In The Matter Of Application Serial No. 78/916,312
Published In The *Official Gazette*, January 2, 2007

THE GLIDDEN COMPANY,)	MARK: rhino glue
Opposer,)	CLASS: 16
vs.)	GOODS: Adhesives for household purposes
Kinsella, Jason INDIVIDUAL)	
Applicant.)	FILED: June 25, 2006
)	NOTICE OF OPPOSITION

The Glidden Company, a Delaware corporation whose principal address is 15885 West Sprague Road, Strongsville, Ohio 44136 (“Glidden”) believes that it will be damaged by the registration of the mark covered by Application Serial No. 78/916,312 and hereby opposes the registration of said mark. As grounds for the opposition it is alleged as follows:

1. The Opposer is a well known manufacturer and seller of various paint, coating, adhesive, caulk and sealant products for industrial, commercial, and consumer use through various channels including its own stores which sell all types of painting accessories throughout the country.
2. Opposer is the owner of Trademark Application Serial No. 78/944891 for the words RHINO ULTRA in International Class 1, for the goods of “polyurethane glue for woodworking”. This use application under 15 U.S.C. § 1051 section 1(a) was filed on August 4, 2006 as shown in

attached Exhibit A of the TESS print out from the US Patent and Trademark Office system with a date of first use in interstate commerce of February 24, 2006.

3. Opposer is also the owner of Trademark Application Serial No. 78/940070 for the RHINO ULTRA GLUE and design in International Class 16, for the goods of “all purpose household glue”. This use application under 15 U.S.C. § 1051 section 1(a) was filed on July 28, 2006 as shown in attached Exhibit B of the TESS print out from the US Patent and Trademark Office system with a date of first use in interstate commerce of February 24, 2006.
4. The Opposer is currently using both forms of these trademarks in interstate commerce.
5. The goods of International Class 16 of the Applicant as described in its application include “adhesives for household purposes”. The goods of Opposer as described in paragraph 2 and 3 would compete with such goods of Applicant. The goods of Opposer and such goods of Applicant would have overlapping if not identical client bases from their use and their channels of trade. The goods of Opposer are sold to distributors, contractors and to do it yourself consumers as could be such goods of Applicant. The buyers and consumers of Opposer’s trademarked product would likely be confused by the use of Applicant’s terms on the goods listed in Applicant’s application for registration to the detriment and irreparable harm of Opposer.
6. Alternatively, if the goods of Applicant and Opposer are not competing directly they certainly are closely related and Applicant’s purchasers would be apt to believe that Applicant’s “rhino glue” brand goods are somehow related, affiliated with, endorsed by or sponsored by Opposer, all to the detriment and irreparable harm of Opposer.

7. Opposer has promoted its goods identified by its trademark hereof in interstate and other commerce lawfully regulated by Congress, and has spent sums of money in promotion of such goods.
8. If Applicant were permitted to use and register the term “rhino glue” for its goods, confusion would be caused to purchasers and consumers of the products by reason of the similarity between Applicants’ intent-to-use trademark and Opposer’s trademark used in interstate commerce and already applied for registration and by reason of the similarity and relatedness of products used, manufactured or sold by Opposer and Applicant, and identified by said respective marks. Purchasers of Applicant’s goods familiar with the products offered by Opposer under Opposer’s “Rhino Ultra” mark and “Rhino Ultra Glue and design” mark may purchase any product to be offered by Applicant using the terms applied for registration assuming that they were purchasing products of Opposer. Any fault or defect in Applicant’s product sold under it’s applied for trademark would reflect upon and seriously injure the reputation which Opposer has built and continues to build for the “Rhino Ultra” and “Rhino Ultra Glue” and design trademarked products.
9. If Applicant were granted the registration herein opposed, it would be placed in a position under cover of governmental authority flowing from the certificate of registration to harass and cause annoyance to Opposer; and to cause confusion, mistake or deception of the public to the damage of Opposer and its business.
10. In view of the foregoing rights of Opposer in the “Rhino Ultra” mark, and “Rhino Ultra Glue” and design mark, Applicant’s mark does not meet the requirements of 15 United States Code 1052(d) for registerability.
11. Applicant’s filing of an intent to use trademark application for the “rhino glue” term well after Opposer’s use in commerce of the “Rhino Ultra” and “Rhino Ultra Glue” and design trademarks could have been

after uncovering Opposer's use thereby lacking sufficient bona fide intent to use the mark "rhino glue" in connection with "adhesives for household purposes."

COUNT I

- A) For the reasons set forth in paragraphs 1-11 above, the mark sought to be registered by Applicant is likely to cause confusion in the minds of the public, erroneously leading the consuming public to believe that rhino glue brand adhesive products have the same origin as Glidden's RHINO ULTRA and RHINO ULTRA GLUE and design brand adhesive products, or that Applicant's adhesive products are affiliated, connected, or associated with, or are manufactured, sold, sponsored, or approved by Glidden.
- B) Applicant's use and registration of the rhino glue mark will cause damage to Glidden within the meaning of Section 13 of the Lanham Act, 15 U.S.C. § 1063.

COUNT II

- 1. Applicant's rhino glue mark is likely to dilute the goodwill and reputation associated with Glidden's RHINO ULTRA and RHINO ULTRA GLUE and design mark.
- 2. Applicant's use and registration of the rhino glue mark will cause damage to Glidden within the meaning of Section 13 of the Lanham Act, 15 U.S.C. § 1063.

WHEREFORE, Glidden prays that its opposition be sustained and that registration of Application Serial No. 78/916,312 be denied.

Please charge Opposer's Deposit Account No. 07-1447 for the fee of THREE HUNDRED DOLLARS (\$300.00) for filing this opposition or such other fee as is appropriate.

All correspondence in this matter should be addressed to Kenneth J. Stachel, The Glidden Company, 15885 West Sprague Road, Strongsville, Ohio 44136.

Respectfully submitted,
THE GLIDDEN COMPANY.

May 2, 2007

by: /s/ Kenneth J. Stachel
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EXHIBIT A

RHINO ULTRA

Word Mark	RHINO ULTRA
Goods and Services	IC 001. US 001 005 006 010 026 046. G & S: Polyurethane glue for woodworking. FIRST USE: 20060224. FIRST USE IN COMMERCE: 20060224
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Design Search Code	
Serial Number	78944891
Filing Date	August 4, 2006
Current Filing Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) The Glidden Company CORPORATION DELAWARE 15885 West Sprague Road Strongsville OHIO 44136
Attorney of Record	Kenneth J. Stachel
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

EXHIBIT B



Word Mark	RHINO ULTRA GLUE
Goods and Services	IC 016. US 002 005 022 023 029 037 038 050. G & S: all purpose household glue. FIRST USE: 20060224. FIRST USE IN COMMERCE: 20060224
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	03.03.03 - Hippopotami; Rhinoceri 03.03.24 - Stylized Elephants, hippopotami, rhinoceri, giraffes, alpacas, camels, llamas 26.07.21 - Diamonds that are completely or partially shaded
Serial Number	78940070
Filing Date	July 28, 2006
Current Filing Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) The Glidden Company CORPORATION DELAWARE 15885 West Sprague Road Strongsville OHIO 44136
Attorney of Record	Kenneth J. Stachel
Description of Mark	The color(s) red, white and gray with black trim is/are claimed as a feature of the mark.
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE